

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

HILL COUNTRY HOLDINGS, LLC d/b/a §
ASHLEY FURNITURE, §

Plaintiff, §

vs. §

NATIONAL UNION FIRE INSURANCE §
COMPANY OF PITTSBURGH, PA §

Defendant. §

Civil Action No. 5:19-cv-00158

NOTICE OF REMOVAL

Defendant National Union Fire Insurance Company of Pittsburgh, PA (“National Union”) files this Notice of Removal of Case No. C2019-0105D, *Hill Country Holdings, LLC d/b/a Ashley Furniture v. National Union Fire Insurance Company of Pittsburgh, PA*, in the 433rd Judicial District Court of Comal County, Texas (“State Court Action”) to the United States District Court for the Western District of Texas, San Antonio Division.

I. Procedural History

1. On January 16, 2019, Plaintiff Ashley Furniture filed its Original Complaint for Declaratory Judgment and Damages against National Union (“Original Complaint”) in the State Court Action.¹

2. National Union was served with the Original Complaint on January 22, 2019.²

3. National Union filed its Original Answer on February 15, 2019.³

¹ A true and correct copy of the Original Complaint is attached as **Exhibit A**.

² A true and correct copy of the citation showing service of the Original Complaint on National Union is attached as **Exhibit B**.

³ A true and correct copy of Defendant’s Original Answer is attached as **Exhibit C**. A true and correct copy of the State Action docket is attached as **Exhibit D**.

II. Basis for Removal: Diversity Jurisdiction

4. This action is removable pursuant to 28 U.S.C. §§ 1332(a), 1441(a). Pursuant to § 1332(a), federal district courts have original jurisdiction over civil actions where the matter in controversy exceeds \$75,000 and where the action is between citizens of different States. 28 U.S.C. § 1332(a)(1).

- a. Plaintiff Ashley Furniture is a Texas limited liability company with its principal place of business in New Braunfels, Texas.
- b. Defendant National Union is a Pennsylvania insurance company with its principal place of business in New York, New York.

Thus, there is a complete diversity of citizenship between the parties to this lawsuit.

5. Based on the allegations in Plaintiff's Original Complaint, the amount in controversy exceeds \$75,000 (exclusive of interest and costs). Specifically, Plaintiff is seeking monetary relief of over \$100,000 but not more than \$200,000. *See* Ex. A, Original Complaint at ¶ 4.

III. Timeliness of Removal

6. This removal was timely filed within thirty days of Defendant being served with a copy of Plaintiff's Original Complaint. *See* 28 U.S.C. § 1446(b)(1) (notice of removal is timely where it is "filed within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, or within 30 days after the service of summons upon the defendant if such initial pleading has then been filed in court and is not required to be served on the defendant, whichever period is shorter."). National Union was served with the Original Complaint on

January 25, 2019. *See* Ex. B. National Union files this Notice of Removal on February 15, 2019, less than thirty days after service.

7. The removal is also timely filed within one year of the commencement of the State Court Action. *See* 28 U.S.C. § 1446(c).

IV. Non-Waiver of Defenses

8. By filing this Notice of Removal, National Union does not waive any defenses that may be available to it and does not concede that the allegations in the Original Complaint state a valid claim under any applicable law.

V. Propriety of Removal to this Court

9. The 433rd Judicial District Court of Comal County, Texas, is located within the Western District of Texas, San Antonio Division. Consequently, under 28 U.S.C. § 1441(a), this action is properly removed to this Court.

VI. Additional Procedural Matters

10. Upon filing this Notice of Removal, Defendant will provide written notification to Plaintiff and will file a Notice of Filing of Removal, attaching a copy of this Notice of Removal, with the Clerk for the 433rd Judicial District Court of Comal County, Texas.

11. This Notice of Removal is signed pursuant to Rule 11 of the Federal Rules of Civil Procedure.

CONCLUSION

Removal of this action is proper because the amount in controversy exceeds \$75,000, complete diversity exists, and Defendant has timely removed the matter. The undersigned Defendant hereby removes this action from the State Court of Texas, Comal County, to this

Honorable Court. Defendant prays that the United States District Court for the Western District of Texas, San Antonio Division, accepts this Notice of Removal.

February 19, 2019

Respectfully submitted,

MAYER BROWN LLP

By: /s/ James B. Danford, Jr.

Jon C. Rice

Attorney-in Charge

State Bar No. 00786194

Federal ID No.: 0072606

jrice@mayerbrown.com

James B. Danford, Jr.

Of Counsel

State Bar No. 24105775

Federal ID No.: 3150442

jdanford@mayerbrown.com

700 Louisiana Street, Suite 3400

Houston, TX 77002

Telephone: (713) 238-2840

Facsimile: (713) 238-4888

**ATTORNEYS FOR NATIONAL UNION FIRE
INSURANCE COMPANY OF PITTSBURGH,
PA.**

CERTIFICATE OF SERVICE

I hereby certify that on February 19, 2019, a true and correct copy of this Notice of Removal was served on all counsel of record via the Court's electronic filing system, in accordance with the Federal Rules of Civil Procedure.

/s/ James B. Danford, Jr.

James B. Danford, Jr.